

UNITED STATES DISTRICT
SOUTHERN DISTRICT OF NEW YORK

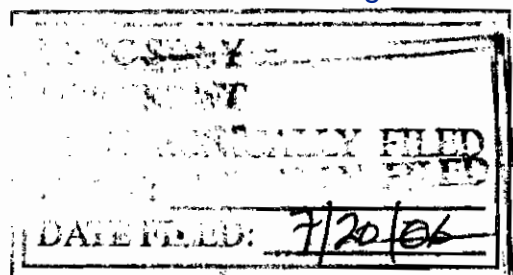
HBC HAMBURG BULK CARRIERS
GMBH & CO. KG,

Plaintiff,

v.

PROTEINAS Y OLEICOS S.A. DE C.V.,

Defendant.



04 CIV 06884 (NRB)

STIPULATION AND ORDER

WHEREAS, by and between the undersigned counsel for the parties herein it is hereby stipulated and agreed, pursuant to Admiralty Rule E(5)(c) of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure that certain sums shall be released to Plaintiff and Defendant, as set forth below, from the funds being held by the Clerk of this Court pursuant to the STIPULATION AND ORDER dated May 26, 2005; and

WHEREAS a Panel of Arbitrators in London issued, on June 23, 2006, an Award in favor of Plaintiff HBC HAMBURG BULK CARRIERS GMBH & CO. K.G. (the "Award"); and

WHEREAS the Award is final and unappealable; and

WHEREAS the Award directed that Defendant PROTEINAS Y OLEICOS S.A. DE C.V. pay forthwith Plaintiff the sum of \$216,561.20 together with interest on that sum at the rate of 6% per annum compounded quarterly from September 30, 2004 until the payment of such sum, which interest calculated up to July 14, 2006 amounts to \$24,308.32; and

WHEREAS the Award directed that Defendant pay Plaintiff interest on the sum of \$162,428.11 at the rate of 6% per annum compounded quarterly from July 19, 2004 to June 2, 2005, which interest amounts to \$14,585.95; and

WHEREAS the Award directed that Defendant pay Plaintiff interest on the sum of \$76,143.14 at the rate of 6% per annum compounded quarterly from September 15, 2004 to December 28, 2005, which interest amounts to \$6,056.03; and

WHEREAS the Award directed that Defendant pay Plaintiff interest on the sum of \$121,775.72 at the rate of 6% per annum compounded quarterly from September 30, 2004 to January 24, 2006, which interest amounts to \$9,943.05; and

WHEREAS the Award directed that Defendant pay Plaintiff the cost of the Award in the sum of \$9,404.40; and

WHEREAS the Award directed that defendant pay Plaintiff the arbitrators' fees, which fees amount to \$7,001.85; and

WHEREAS, pursuant to a Stipulation and Order dated May 26, 2005, Garnishee Citibank transferred the sum of \$1,129,274.14 which had been restrained pursuant to the Process of Maritime Attachment and Garnishment served in the above captioned action to the Clerk of the Court of the U.S. District Court for the Southern District of New York c/o the U.S. Treasury, ABA No. 021030004, Agency Location Code 4654, to be held in an interest bearing account; and

WHEREAS, pursuant to a Stipulation and Order dated December 22, 2005, entered in the action captioned "HBC HAMBURG BULK CARRIERS GMBH & CO. KG v. PROTEINAS Y OLEICOS S.A. DE C.V." pending in the U.S. District Court for

the District of South Carolina, C.A. No. 3 05-0034.24, the sum of \$76,143.14 was paid to Plaintiff on December 23, 2005 by Garnishee Bank of America; and

WHEREAS, pursuant to Stipulation and Order dated January 3, 2006, the Clerk of the Court transferred the sum of \$121,775.76 to Plaintiff's counsel's account in partial settlement of Plaintiff's claims against Defendant for damages as set forth in its Verified Complaint; and

WHEREAS, pursuant to Stipulation and Order dated February 1, 2006, the Clerk of the Court transferred the sum of \$409,573 to Defendant's counsel's account; and

WHEREAS IT IS FURTHER STIPULATED AND AGREED that both parties reserve their rights, claims and defenses concerning Plaintiff's entitlement to costs and attorneys' fees, which costs and attorneys' fees, together with anticipated interest until paid, are said to be \$175,000.00; and

WHEREAS IT IS FURTHER STIPULATED AND AGREED that both parties reserve their rights, claims and defenses concerning Defendant's claim to costs and interest as a result of HBC allegedly having obtained excessive security; and

WHEREAS IT IS FURTHER STIPULATED AND AGREED, pursuant to Admiralty Rule E(5)(c) of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure that: (1) the sum of \$287,860.80 be released to Plaintiff's counsel's account; (2) the sum of \$166,947.61 be released to Defendant's counsel account; and (3) the sum of \$175,000.00, representing the disputed costs and attorneys' fees be retained by the Clerk of the Court pending further Order of this Court;

IT IS HEREBY ORDERED, that the Clerk of the Court is directed to pay to Plaintiff HBC HAMBURG BULK CARRIERS GMBH & CO. KG through Citibank, N.A., 120 Broadway, New York, NY, ABA Routing No. 021 0000 89, For the Account of Freehill, Hogan & Mahar, LLP, Trust Account No. 370-322-09, the sum of \$287,860.80 (TWO HUNDRED EIGHTY SEVEN THOUSAND EIGHT HUNDRED SIXTY and 80/100 U.S. DOLLARS) from the funds being held by the Clerk of the Court pursuant to the STIPULATION AND ORDER dated May 26, 2005;

IT IS FURTHER ORDERED, that the Clerk of the Court is directed to pay to Defendant PROTEINAS Y OLEICOS S.A. DE C.V. through HSBC Bank USA, 120 Broadway, New York, New York 10271, ABA Routing No. 021001088, For the Account of Healy & Baillie LLP, Trust Account No. 001-82708-1, the sum of \$166,947.61 (ONE HUNDRED SIXTY SIX THOUSAND NINE HUNDRED FORTY SEVEN and 61/100 US DOLLARS) from the funds being held by the Clerk of the Court pursuant to the STIPULATION AND ORDER dated May 26, 2005;

IT IS FURTHER ORDERED that the remainder of the funds being held by the Clerk of the Court shall be retained pending further Order of this Court.

Dated: New York, New York
July 17, 2006

FREEHILL HOGAN & MAHAR, LLP
Attorneys for Plaintiff
HBC Hamburg Bulk Carriers GmbH & Co. KG

By: 

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SO ORDERED:

Naomi Reice Buchwald
Naomi Reice Buchwald
U.S.D.J. 7/20/06